

ENRON

NORTHERN NATURAL GAS COMPANY

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November 5, 1993

Mr. Ivan A. Huntoon
Director, Central Region
Office of Pipeline Safety
911 Walnut Street
Kansas City, MO 64106

Re: Proposed Inspection Procedures

Dear Mr. Huntoon:

In our conversation a couple of weeks ago, we discussed several proposed DOT inspection procedures over which Northern Natural Gas Company ("Northern") has expressed concerns. We agreed that it would be productive to outline those concerns in a letter so as to minimize misunderstandings over the nature of these concerns.

So there is no confusion, the issues identified here relate to routine inspections under 40 C.F.R. § 190.203(a) and (b) and not to situations where warning letters have been issued or other enforcement activities have been commenced.

Pursuant to our discussion, Northern hereby identifies three areas where proposed routine inspection activities exceed OPS inspection authority:

1. *OPS Inspector Interviews of Employees.*

49 C.F.R. §190.203 sets forth the regulatory conditions for the conduct of inspections to determine compliance with the Natural Gas Pipeline Safety Act ("NGPSA"). This provision states:

"Officers, employees, or agents authorized by the Director, OPS, upon presenting appropriate credentials are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance..."
(emphasis added)

Employee interviews are highly intrusive and involve extremely sensitive issues in the area of basic constitutional protections. Absent specific statutory language authorizing such conduct, such activities are not permitted. For instance, the Occupation Health and Safety Act (OSHA) specifically provides for such interview authority. Of course, Northern has worked with the OPS in the past and plans to continue providing corporate personnel when inspections occur who can facilitate the inspections.

2. *Accompanying or following Northern employees during their duties.*

Northern has several concerns with respect to OPS inspectors accompanying Northern personnel as Northern employees travel from location to location in the performance of their duties. One concern relates to potential liability issues caused by the presence of OPS employees. The performance of operations functions generally requires the full attention of the employee(s) involved. In particular, when the escape of gas is involved, there is the potential for significant adverse consequences. The presence of any untrained and unnecessary individuals increases the possibility that something may go wrong. Northern employees will not be able to devote full attention to their duties if an OPS inspector is present. This not only places the inspector(s) and Northern employee(s) at greater risk than [sic] necessary, it increases the probability that an accident may happen. Northern does not believe the OPS desires to expose its inspectors to unnecessary risks. Northern certainly does not desire to expose its employees or itself to such greater risk of liability because of the presence of inspectors and therefore does not wish unnecessary personnel present.

Northern is not suggesting that it conducts its operations in an unsafe manner. To the contrary, Northern places extreme emphasis on safety and makes every attempt to conduct all of its operations in full compliance with applicable regulations. However, even if there were no additional safety risks involved, Northern believes such activity is beyond the scope of inspection authority. The regulations are clear that inspectors may examine records and properties. Accompanying employees on their duties is not necessary for the OPS to accomplish accurate review of Northern records and properties. Without specific language that authorizes such an activity, Northern may at its option allow such activity, but is not required to do so.

3. *Notification of the OPS that Northern will be conducting certain operations.*

The OPS has expressed a desire to be notified when Northern will be conducting particular operations, such as emergency shutdowns, so that OPS inspectors may scrutinize such operations. As previously stated, the

regulations permit examination of records and property upon the arrival of OPS inspectors. Prior notification to the OPS of particular activities is beyond the scope of the regulations and would solely be at the option of Northern.

Of course, Northern values its relationship with the OPS. Northern has made every attempt to comply with OPS regulations and to cooperate with the OPS where OPS requests are reasonable. Northern is concerned with the nature of these requests for several reasons. The presence of OPS personnel on the locations is highly disruptive to daily operations. Not only is Northern adversely affected economically when such disruptions occur but employee moral is adversely affected. In addition, the opportunity for distracted employees to cause themselves or others possible injury is enhanced.

The OPS requests under Item 1. and 2. are beyond the scope of the regulations and in Northern's opinion unreasonable. The OPS request under Item 3. is beyond the scope of OPS authority; however, in certain limited situations Northern would be willing to consider notifying the OPS of specific activities on the condition that OPS observers would not be present in an audit/inspection function.

I hope this discussion clarifies and focuses the concern Northern has previously expressed. If you should have any questions, please feel free to contact me or feel free to pass this information along to your legal staff so we can continue discussions and resolve any concerns the OPS and Northern may have.

Sincerely,

Louis P. Soldano
Senior Counsel